

IN THE SUPERIOR COURT OF MUSCOGEE COUNTY**STATE OF GEORGIA****PEDRO J. BURGOS,****Plaintiff,****v.****OPTION ONE MORTGAGE CORP.
n/k/a SAND CANYON CORP.****Defendant.**§
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§**CIVIL ACTION****FILE NUMBER: SU13CV1077****DIRECT APPEAL**

NOTICE OF APPEAL

COMES NOW, PEDRO J. BURGOS, the Appellant and hereby file his Notice of Appeal pursuant O.C.G.A. § 5-6-34(a) by timely appealing to the Georgia Court of Appeals from the final order entered by this Court on **October 3RD, 2018** and including the any other orders entered in this case. See **Exhibit "A"** attached hereto.

Therefore, the Clerk of this Court shall omit nothing in the record pertaining to the Appellant's appeal. Furthermore, the Plaintiff as the Appellant stated herein, aver that there is no transcript of evidence of the proceedings that is to be filed for the inclusion of the record on the Appellant's appeal.

You are hereby required to prepare and transmit the entire record in Appellant's appeal in the matter to the Georgia Court of Appeals within (20) days from the date of filing this Notice of Appeal. See, O.C.G.A. § 5-6-43(a).

A copy of said final order entered on October 3rd, 2018 by the Superior Court of Muscogee County is hereby attached hereto and marked as **Exhibits "A"**.

Attachment "1"

I. JURISDICTION OVER THIS APPEAL

The Appellant's Notice of Appeal is timely filed within (30) days after entry of the final order on October 3rd, 2018, (**Exhibit "A"**) pursuant to O.C.G.A. § 5-6-34(a) according to the collateral order doctrine as adopted by both the Georgia Supreme Court and the Georgia Court of Appeals with respect to direct appeals. See, Parker v. Kennon, 235 Ga. App. 272, 509, S.E.2d 152 (1998) (*holding that the Collateral Order Doctrine applies*); Patterson v. State, 248 Ga. 875 (287 S.E.2d 7) (1982) (*Georgia Supreme Court adopting the collateral order doctrine in Cohen v. Beneficial Industrial Loan Corp.*, 337 U. S. 541 (69 SC 1221, 93 LE 1528) (1949)).

The Appellant directly appeals to the Georgia Court of Appeals concerning the final order entered on October 3th, 2018 because the trial Court improperly set a hearing on a non-party's motion to intervene in this case and thus collateral order doctrine apply. See, Parker v. Kennon, 235 Ga. App. 272, 509, S.E.2d 152 (1998) (*holding that the Collateral Order Doctrine applies*); Patterson v. State, 248 Ga. 875 (287 S.E.2d 7) (1982) (*Georgia Supreme Court adopting the collateral order doctrine*).

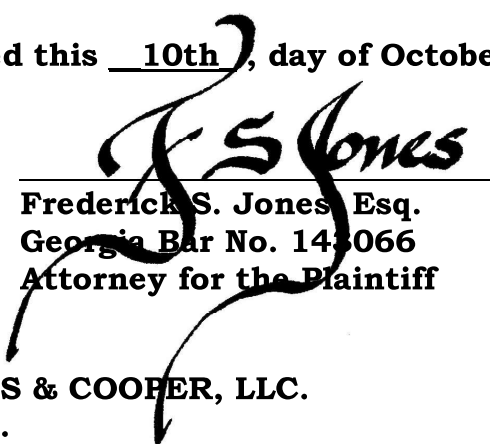
The Appellant aver that the collateral order doctrine applies in this appeal because the order complies of: (1) completely and conclusively resolve the issue being appealed (i.e., whether the trial Court has jurisdiction to enter the order complain of); (2) concern the issue intervention that is substantially separate from the basic issue presented in Plaintiff's claim; and (3) will result in the loss of an important right. See, Scroggins v. Edmondson, 250 Ga. 430, 431(1)(c), 297 S.E.2d 469 (1982); Dept. of Transp. v. Hardaway Co., 216 Ga. App. 262(1), 454 S.E.2d 167 (1995).

Finally, Appellant is entitled to a direct appeal because the trial Court lacked subject-matter jurisdiction to enter the October 3rd, 2018 final order, setting a hearing on a non-party's motion to intervene in this action. The Appellant collaterally attack this order pursuant to O.C.G.A. § 9-12-16 as being null and void due to lack of subject-matter jurisdiction. Therefore, the Court of Appeals has jurisdiction to hear this direct appeal because the final order by the trial Court is void as a matter of law. See, *Darden v. Ravan*, 232 Ga. 756, 758(1), 208 S.E.2d 846 (1974) (*"It is well settled that when a trial court enters a judgment where it does not have jurisdiction, such judgment is a mere nullity; but an appeal from such an illegal judgment will not be dismissed but instead, the void judgment will be reversed"*).

II. PRAYER FOR RELIEF

WHEREFORE, the Appellant herein pray and demand that Clerk of this Court transmit the full record of this case to the Georgia Court of Appeals and that Court reverse the trial Court with respect to the final order entered on October 3rd, 2018 as relief to the Appellant in this civil action as a matter of law.

Respectfully submitted this 10th, day of October 2018.



Frederick S. Jones, Esq.
Georgia Bar No. 143066
Attorney for the Plaintiff

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CERTIFICATE OF SERVICE

COMES NOW, FREDERICK S. JONES Attorney for Plaintiff in the above-styled civil action and certify that I have served the Defendant with a copy of Plaintiff's NOTICE OF APPEAL without prejudice by U.S. First Class Mail with proper postage addressed as follows:

Mr. Dale M. Sugimoto, President & CEO
Option One Mortgage Corporation
2 Martin Luther King Jr., Drive
Suite 315
Atlanta, Georgia 30334

Respectfully submitted this 10th, day of October 2018.



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Attorney for the Plaintiff

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IN THE SUPERIOR COURT OF MUSCOGEE COUNTY
STATE OF GEORGIA

FILED IN OFFICE
2018 OCT -3 PM 1:21

PEDRO BURGOS

Plaintiff,

v.

OPTION ONE MORTGAGE CORP.,

Defendant.

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CASE NO. SU-13-CV-1077

SHASTA CLOVER
MUSCOGEE COUNTY
SUPERIOR COURT

ORDER AND NOTICE OF HEARING

IT IS HEREBY ORDERED that a hearing in the above-styled matter has been scheduled for October 24, 2018 at 2:00 pm. The subjects of the hearing shall be the Motion To Intervene As A Party Defendant filed by non-party Wells Fargo Bank, N.A., the Plaintiff's attempted voluntary dismissal, and any other matters presently relevant to this case.

SO ORDERED this 3 day of October, 2018



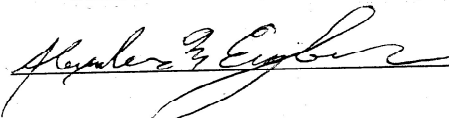
JUDGE WILLIAM C. RUMER
SUPERIOR COURT OF
MUSCOGEE COUNTY, GEORGIA

Exhibit "A"

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for all involved parties with a copy of this order by depositing it in the United States Mail in a properly addressed envelope with adequate postage thereon.

This 3rd day of October, 2018.



Alexander Engler
Law Clerk, Superior Court
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